

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS  
BENTON DIVISION

MARY E. SHEPARD and the ILLINOIS  
STATE RIFLE ASSOCIATION,

Plaintiffs,

V.

LISA M. MADIGAN, solely in her official capacity as ATTORNEY GENERAL OF ILLINOIS, GOVERNOR PATRICK J. QUINN, solely in his official capacity as Governor of the State of Illinois, TYLER R. EDMONDS, solely in his official capacity as the State's Attorney of Union County, Illinois, and SHERIFF DAVID LIVESAY, solely in his official capacity as Sheriff of Union County,

Defendants.

No. 3:11-cv-00405-WDS-PMF

Honorable Judge William D. Stiehl

Magistrate Judge Philip M. Frazier

## DECLARATION OF STEPHEN P. HALBROOK

My name is Stephen P. Halbrook, and my law office is located at 3925 Chain Bridge Road, Suite 403, Fairfax, VA 22030. In this case I worked with counsel for the plaintiffs and appellants primarily by conducting research and writing to assist in the drafting and review of the pleadings and briefs. I give this Declaration in support of the Plaintiffs' Motion for Award of Attorneys' Fees and Expenses.

## Background

In 1978, I received the J.D. from Georgetown University Law Center, and have been continuously engaged in the practice of law since then. Before that, I received a Ph.D. in Philosophy from Florida State University in 1972, and thereafter was an assistant professor at Tuskegee Institute, Howard University, and George Mason University until 1981.

I was admitted to the Virginia State Bar in 1978, and to the District of Columbia Bar in 1984. I am a member of the bars of, and have argued cases in, the U.S. Supreme Court and the U.S. Courts of Appeals for the D.C., 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, and Federal Circuits. Cases which resulted in reported judicial decisions which I argued are listed on my Resume, which is attached as Exhibit A. As reflected below and in more detail in my Resume, I

have focused my 35-year legal career on issues involving local, state, and federal firearms laws, with particular reference to the Second and Fourteenth Amendments to the U.S. Constitution.

### **My Work in this Case**

Attached as Exhibit B is a true and accurate copy of the work I performed in this case, showing dates, services provided, and hours. These records were kept on a daily basis as work was performed. In the interest of billing judgment, I deleted 17.2 hours. I attest that all of the hours submitted herein were reasonable and necessary in order to furnish adequate representation to my clients in this case.

The dates of services rendered show work in the district court from May 6, 2011, when the complaint was being drafted, through March 21, 2012, shortly after which the district court dismissed the complaint (March 30, 2012). My work on the appeal commenced on May 11, 2012, and extended through June 7, 2013 (which was prior to the law's passage and the issuance of the mandate on July 9, 2013). At the end, I show time spent on preparation of this declaration and attachments through December 16, 2013.

My time included the monitoring of cases in other jurisdictions that could have impacted the result in this case. These cases are identified on my time sheets as follows: Aguilar (Illinois Court of Appeals and Supreme Court), Hightower (1<sup>st</sup> Circuit), Kalchasky (2<sup>nd</sup> Circuit), Masciandaro and Woollard (4<sup>th</sup> Circuit), and Nordyke (9<sup>th</sup> Circuit). These cases involved the same substantive issue as this case (except for Nordyke, which involved the standard of review). The court of appeals in this case considered and rejected the decisions in some of these cases.

### **Litigation Experience**

Almost all of the numerous cases I have litigated for over three decades have involved firearms law and the Second Amendment. See Resume, Exhibit A.

I have argued and/or written briefs in several Supreme Court cases involving firearms law and Second Amendment. In *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010), I was a primary draftsman of the briefs of the National Rifle Association, which was a party. In *District of Columbia v. Heller*, 554 U.S. 570 (2008), I filed an amici curiae brief on behalf of 55 Members of U.S. Senate, the President of U.S. Senate, and 250 Members of U.S. House of Representatives. See 2008 WL 383530. In addition, I argued the following cases: *Castillo v. United States*, 530 U.S. 120 (2000); *Printz v. United States*, 521 U.S. 898 (1997); and *United States v. Thompson/Center Arms Co.*, 504 U.S. 505 (1992). I was on the briefs in *Small v. United States*, 544 U.S. 385 (2005). I was on the prevailing side in all of the above cases.

A number of the cases I have litigated involved the meaning of the right to "bear arms" as used in the Second Amendment. Besides this case, other recent cases in which I litigated the specific issue of whether the Second Amendment right to "bear arms" protects a right to carry firearms in public include filing a petition for a writ of certiorari in *Williams v. State*, 10 A.3d 1167 (Md. 2011), *cert. denied*, 132 S.Ct. 93 (2011), and filing amici curiae briefs in *People v. Aguilar*, 2013 IL 112116, 2013 WL 5080118 (Ill. 2013); *Woollard v. Gallagher*, 712 F.3d 865

(4<sup>th</sup> Cir. 2013); and *Edward Peruta v. County of San Diego*, No. 10-56971 (9<sup>th</sup> Cir., brief filed May 25, 2011). Besides this case, I have dealt Illinois AUUW provisions as an amicus in *Aguilar, supra*, and as consulting counsel for the plaintiff in *Gowder v. City of Chicago*, 923 F. Supp.2d 1110 (N.D. Ill. 2012) (beginning in 2010).

### **Unique Qualifications for this Case**

I am author of the following books concerning the Second Amendment, all of which include analysis of the right to bear arms outside the home in historical context and in precedent:

*The Founders' Second Amendment: Origins of the Right to Bear Arms* (Ivan R. Dee, 2008). Cited as authority in *McDonald*, 130 S. Ct. at 3037, and in *United States v. Skoien*, 614 F.3d 638, 640, 648-49 (7<sup>th</sup> Cir. 2010) (*en banc*) (majority and dissenting opinions).

*Freedmen, the Fourteenth Amendment, and the Right to Bear Arms, 1866-1876* (Praeger Publishers, 1998). Updated edition published as *Securing Civil Rights* (Independent Institute 2010). Cited as authority in *Heller*, 554 U.S. at 614-15; *McDonald*, 130 S.Ct. at 3038, 3042-43; & *Nordyke v. King*, 563 F.3d 439, 456 (9<sup>th</sup> Cir. 2009).

*That Every Man Be Armed: The Evolution of a Constitutional Right* (University of New Mexico Press, 1984, 2013). Cited as authority in *Printz v. United States*, 521 U.S. 898, 939 n.2 (1997) (Thomas, J., concurring); & *Silveira v. Lockyer*, 328 F.3d 567, 577 n.53 (9<sup>th</sup> Cir. 2003) (Kleinfeld, J., dissenting).

*Firearms Law Deskbook: Federal and State Criminal Practice* (Thomson/West, 2013) (supplemented annually).

I am also the author of numerous law review articles, and have testified in Congressional hearings numerous times, on Second Amendment issues. See Resume, Exhibit A.

### **Calculation of Reasonable Attorney's Fees**

The reasonable hourly rate is the market rate, which is “the rate that lawyers of similar ability and experience in the community normally charge their paying clients for the type of work in question.” *Gautreaux v. Chicago Housing Authority*, 491 F.3d 649, 659-60 (7<sup>th</sup> Cir. 2007) (citation omitted).<sup>1</sup> While an attorney’s actual billing rate for comparable work may be presumptively reasonable, an attorney may have no fee-paying clients or may work for reduced fees, in which case the court should consider “evidence of rates similarly experienced attorneys in the community charge paying clients for similar work . . .” *Spegon v. Catholic Bishop of*

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<sup>1</sup>The relevant “community of practitioners” may pertain to an area of the law “where the attorneys practicing it are highly specialized and the market for legal services in that area is a national market.” *Jeffboat, LLC v. Director, Office of Workers’ Comp. Programs*, 553 F.3d 487, 490 (7<sup>th</sup> Cir. 2009).

*Chicago*, 175 F.3d 544, 555 (7<sup>th</sup> Cir. 1999). “[A] particular attorney may have special skills or experience which raise the value of his time above the value of another attorney's time.” *Chrapliwy v. Uniroyal, Inc.*, 670 F.2d 760, 767 (7<sup>th</sup> Cir. 1982).

“‘[R]easonable fees’ under [42 U.S.C.] § 1988 are to be calculated according to the prevailing market rates in the relevant community, regardless of whether plaintiff is represented by private or nonprofit counsel.” *Blum v. Stenson*, 465 U.S. 886, 895 (1984). A fee award under § 1988 should “be governed by the same standards which prevail in other types of equally complex Federal litigation, such as antitrust cases . . . .” *Id.* at 393 (quoting Senate report). Thus, a fee award for a nonprofit legal service organization is calculated according to prevailing market rates, not cost. *Id.* at 889.

Thus, the prevailing market rate may be recovered not just by for-profit firms, but also by “attorneys who practice privately and for profit but at reduced rates reflecting non-economic goals.” *Save our Cumberland Mountains, Inc. v. Hodel*, 857 F.2d 1516, 1524 (D.C. Cir. 1988) (*en banc*). As *Barrow v. Falck*, 977 F.2d 1100, 1105 (7<sup>th</sup> Cir. 1992), explained:

Some lawyers dedicate their professional lives to causes they find admirable and worthy of support—to legal services for the poor, to the representation of unions. These lawyers are making contributions to their favored causes, not in money but in time. . . . Using opportunity cost as the measure of legal services means that the value of the lawyer's gift inures to the favored cause, and not to the adversary in litigation.

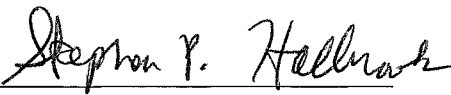
*Accord, Gusman v. Unisys Corp.*, 986 F.2d 1146, 1149 (7<sup>th</sup> Cir. 1993); *Central States, Southeast & Southwest Areas Pension Fund v. Central Cartage Co.*, 76 F.3d 114, 117 (7<sup>th</sup> Cir. 1996).

### **Reasonable Hourly Rate**

I believe that legal services required to support Second Amendment rights should be affordable, and for that reason I charge rates that are lower than market rates for an attorney with a comparable background and experience. From the commencement of this litigation through the present, my hourly rates have been between \$475 and \$540 per hour, except that I performed services for one non-profit client at \$400 per hour.

Given my unique 35-years experience in litigation and scholarship regarding Second Amendment rights, including numerous appeals and Supreme Court practice, an hourly rate of \$600 per hour, if not higher, would be a reasonable fee for me. Nevertheless, I am requesting a reasonable hourly rate of only \$540 an hour. The total time I expended in this litigation was 131.8 hours. Exhibit B. At \$540 per hour, total reasonable fees amount to \$71,172.

I declare under penalty of perjury that the foregoing is true and correct.

  
STEPHEN P. HALBROOK

Date: December 24, 2013

# EXHIBIT A

**DECLARATION OF STEPHEN P. HALBROOK**

**EXHIBIT A**

**STEPHEN P. HALBROOK, PH.D.**  
**ATTORNEY AT LAW**  
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***R E S U M E***

**BAR MEMBERSHIPS**

Virginia State Bar  
District of Columbia Bar  
U.S. Supreme Court  
U.S. Courts of Appeals (D.C., 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, Federal  
Circuits)  
U.S. District Courts (D.C., E.D. Va., Md., N.D. Ga., S.D. Ohio, E.D. Ca., C.D. Ill., E.D.  
Mich., Ariz., E.D. Wis.)  
U.S. Courts (Claims, Tax, Military Appeals)

**EDUCATION**

Georgetown University Law Center	J.D.	1978
Florida State University	Ph.D. Philosophy	1972
Florida State University	B.S. Business	1969

**EMPLOYMENT**

Attorney at Law, Civil Litigation and Criminal Defense, 1978-Present  
Assistant Professor of Philosophy - George Mason University, 1980-81; Howard  
University, 1974-79; Tuskegee Institute, 1972-74  
Law Fellow/Coordinator, Barristers' Council, Georgetown University, 1975-77  
Instructor of Philosophy, Florida State University, 1970-72

**COUNSEL IN REPORTED CASES**

***U.S. Supreme Court (prevailed in all cases):***

*McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010) (on NRA brief). Case history: *National Rifle Ass'n v. Village of Oak Park*, 617 F. Supp.2d 752 (N.D. Ill. 2008), *aff'd sub nom.*, *National Rifle Ass'n v. City of Chicago*, 567 F.3d 856 (7<sup>th</sup> Cir. 2009), *cert. granted sub nom.*, *McDonald v. City of Chicago*, 130 S.Ct. 48 (2009), *rev'd*, *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010), *cert. granted & remanded*, *NRA v. Chicago*, 2010 WL 2571876 (U.S. 2010). On remand, *NRA v. Chicago*, 393 F. App'x 390 (7<sup>th</sup> Cir. Aug. 25, 2010), *on further remand*, *NRA v. Village of Oak Park*, 755 F. Supp.2d 982 (N.D. Ill. 2010) (denying attorney's fees), *rev'd*, *NRA v. Chicago*, 646 F.3d 992 (7<sup>th</sup> Cir. 2011) (remanding for award of attorney's fees), 2012 WL 2396366 (N.D. Ill. 2012) (fee award).

*Small v. United States*, 544 U.S. 385, 125 S. Ct. 1752, 161 L.Ed.2d 651 (2005) (on brief).

*Castillo v. United States*, 530 U.S. 120, 120 S. Ct. 2090, 147 L. Ed. 2d 94 (2000) (argued). Case history: *United States v. Branch*, 91 F.3d 699 (5<sup>th</sup> Cir. 1996), *cert. denied sub nom.*, *Castillo v. United States*, 520 U.S. 1185 (1997), *aff'd*, *after remand*, 179 F.3d 321 (5<sup>th</sup> Cir. 1999), *cert. granted*, 120 S.Ct. 865 (2000), oral argument: April 24, 2000, *final remand*, 220 F.3d 648 (5<sup>th</sup> Cir. 2000). The Supreme Court reversed the Fifth Circuit decisions. Oral argument in the Supreme Court may be heard at <http://www.oyez.org/oyez/audio/1233/argument.smil>. The announcement of the decision by Justice Breyer may be heard at <http://www.oyez.org/oyez/audio/1233/opinion.smil>.

*Printz v. United States*, 521 U.S. 898, 117 S. Ct. 2365, 138 L. Ed. 2d 914 (1997) (argued), *oral argument*, 65 U.S.L.W. 3425 (Dec. 17, 1996), *rev'g Mack v. United States*, 66 F.3d 1025 (9<sup>th</sup> Cir. 1995), *rev'g* 856 F. Supp. 1372 (D. Ariz. 1994) and *rev'g Printz v. United States*, 854 F.Supp. 1503 (D. Mont. 1994). Oral argument in the Supreme Court may be heard in *The Supreme Court's Greatest Hits* (CD, Northwestern University, 1999), and at the Oyez Project website <http://www.oyez.org/oyez/resource/case/835/audioresources>.

*United States v. Thompson/Center Arms Co.*, 504 U.S. 505, 112 S. Ct. 2102, 119 L. Ed. 2d 308 (1992) (argued), *aff'g*. 924 F.2d 1041 (Fed. Cir. 1991), *rev'g* 19 Cl.Ct. 725 (1990). *Earlier proceeding*, *Thompson/Center Arms Co. v. Baker*, 686 F. Supp. 38 (D.N.H. 1988).

#### ***Federal and State Courts:***

*Baca v. New Mexico Dept. of Public Safety*, 132 N.M. 282, 47 P.3d 441 (2002) (Intervenors).

*Blaustein & Reich, Inc. v. Buckles*, 220 F. Supp.2d 535 (E.D. Va. 2002), *aff'd*, 365 F.3d 281 (4<sup>th</sup> Cir. 2004) (Plaintiff).

*Brown v. Continental Telephone Co. of Va., Inc.*, 670 F.2d 1364 (4<sup>th</sup> Cir. 1982) (Plaintiff).

*Coalition of New Jersey Sportsmen v. Whitman*, 44 F. Supp.2d 666 (D. N.J. 1999), *aff'd*,



263 F.3d 157 (3d Cir. 2001), *cert. denied*, 534 U.S. 1039 (2001) (Plaintiffs).

*Farmer v. Higgins*, 907 F.2d 1041 (11th Cir. 1990), *cert. denied*, 498 U.S. 1047 (1991) (Plaintiff).

*F.J. Vollmer Co., Inc. v. Higgins*, 23 F.3d 448 (D.C. Cir. 1994), *later proceeding*, *F.J. Vollmer Co., Inc. v. Magaw*, 102 F.3d 591 (D.C. Cir. 1996) (Plaintiff).

*Fresno Rifle & Pistol Club, Inc. v. Van de Kamp*, 746 F. Supp. 1415 (E.D. Cal. 1990), *aff'd*, 965 F.2d 723 (9th Cir. 1992) (Plaintiffs).

*Gilbert Equipment Co., Inc. v. Higgins*, 709 F. Supp. 1071 (S.D. Ala. 1989), *aff'd*, 894 F.2d 412 (11th Cir. 1990) (*mem.*) (Plaintiff).

*Gun Owners' Action League, Inc. v. Swift*, 284 F.3d 198 (1<sup>st</sup> Cir. 2002), *cert. denied*, 537 U.S. 827 (2002) (Plaintiffs).

*Heller v. District of Columbia*, 698 F. Supp.2d 179 (D. D.C. 2010), *aff'd in part & rev'd in part*, 670 F.3d 1244 2011 (D.C. Cir. 2011), *on remand*, 2013 WL 1143778 (D. D.C. 2013) (Plaintiffs).

*Intrac Arms International, L.L.C. v. Albright*, 1998 U.S. Dist. LEXIS 21858 (D. D.C. 1998) (Plaintiff).

*Koog/McGee v. United States*, 79 F.3d 452 (5th Cir. 1996), *cert. denied*, *United States v. Gonzalez*, 521 U.S. 1118, 117 S.Ct. 2507, 138 L.Ed.2d 1011 (1997), *rev'g Koog v. United States*, 852 F. Supp. 1376 (W.D. Tex. 1994), and *aff'g McGee v. United States*, 863 F. Supp. 321, *earlier proceeding* 849 F. Supp. 1147 (S.D. Miss. 1994) (Plaintiffs).

*Lomont v. Summers*, 135 F. Supp. 2d 23 (D. D.C. 2001), *aff'd*, 285 F.3d 9 (D.C. Cir. 2002) (Plaintiffs).

*National Rifle Ass'n v. Brady*, 914 F.2d 475 (4th Cir. 1990), *cert. denied*, 499 U.S. 959 (1991), *later proceeding*, *National Rifle Ass'n v. Bentsen*, 999 F.2d 772 (4th Cir. 1993) (Plaintiffs).

*National Rifle Ass'n v. City of South Miami*, 774 So. 2d 815 (Fla. 3<sup>rd</sup> DCA 2000), *later proceeding*, 812 So. 2d 504 (2002) (Plaintiffs).

*National Rifle Ass'n v. City of Evanston*, 2009 WL 1139130 (N.D. Ill. 2009) (Plaintiffs).

*National Rifle Ass'n v. Nagin*, 2005 WL 2428840 (E.D. La. 2005) (Plaintiffs).

*National Rifle Ass'n v. Reno*, 216 F.3d 122 (D.C. Cir. 2000), *cert. denied*, 533 U.S. 928 (2001) (Plaintiffs).

*National Shooting Sports Foundation, Inc. v. Jones*, 840 F. Supp.2d 310 (D. D.C. 2012), *aff'd*, 716 F.3d 200 (D.C. Cir. 2013) (Plaintiffs).

*Peoples Rights Organization, Inc. v. City of Columbus*, 925 F. Supp. 1254 (S.D. Ohio 1996), *aff'd in part and rev'd in part*, 152 F.3d 522 (6th Cir. 1998) (Plaintiffs).

*Peoples Rights Organization, Inc. v. Montgomery*, 142 Ohio App. 3d 443, 756 N.E.2d 127 (2001), *appeal denied*, 93 Ohio St. 3d 1410, 754 N.E.2d 258 (2001) (Plaintiffs).

*Richmond Boro Gun Club, Inc. v. City of New York*, 896 F. Supp. 276 (E.D. N.Y. 1995), *aff'd*, 97 F.3d 681 (2nd Cir. 1996) (Plaintiffs).

*Robertson v. City of Denver*, 874 P.2d 325 (Colo. 1994), *appeal after remand*, 978 P.2d 156 (Colo. App. 1999) (Plaintiffs).

*RSM, Inc. v. Buckles*, 94 F. Supp. 2d 692 (D. Md. 2000), *rev'd*, 254 F.3d 61 (4th Cir. 2001) (Plaintiffs).

*Ruiz v. People Express Airlines*, 802 F.2d 1508 (4th Cir. 1986), *cert. denied*, 480 U.S. 934 (1987) (Plaintiffs).

*Seegars v. Ashcroft*, 297 F. Supp. 2d 201 (D. D.C. 2004), *rev'd in part & aff'd in part*, 396 F.3d 1248 (D.C. Cir. 2005), *reh. denied*, 413 F.3d 1 (D.C. Cir. 2005) (with opinions), *cert. denied*, 456 U.S. 1157 (2006) (Plaintiffs).

*Sendra Corp. v. Magaw*, 111 F.3d 162 (D.C. Cir. 1997) (Plaintiff).

*Springfield Armory, Inc. v. City of Columbus*, 805 F. Supp. 489 (S.D. Ohio 1992), *rev'd*, 29 F.3d 250 (6th Cir. 1994) (Plaintiffs).

*Springfield, Inc. v. Buckles*, 116 F. Supp. 2d 85 (D. D.C. 2000), *aff'd*, 292 F.3d 813 (D.C. Cir. 2002) (Plaintiff).

*State v. Denver*, 139 P.2d 635 (Colo. 2006), oral argument available at [mms://www.courts.state.co.us/supctoralarguments/051208\\_05sa22.wma](https://www.courts.state.co.us/supctoralarguments/051208_05sa22.wma) (Plaintiff).

*Taylor v. United States*, 848 F.2d 715 (6th Cir. 1988) (Plaintiff).

*Torraco v. Port Authority of N.Y. & N.J.*, 615 F.3d 129 (2<sup>nd</sup> Cir. 2010) (Plaintiffs).

*United States v. Bundy*, 392 F.3d 641 (4<sup>th</sup> Cir. 2004) (Defendant).

*United States v. Evans*, 712 F. Supp. 1435 (D. Mont. 1989), *aff'd*, 928 F.2d 858 (9<sup>th</sup> Cir. 1991) (defendant in District Court).

*United States v. Fourteen Various Firearms*, 889 F. Supp. 875, *later proceeding*, 899 F. Supp. 249 (E.D. Va. 1995) (Defendant).

*United States v. Hunter*, 843 F. Supp. 235 (E.D. Mich. 1994) (Defendant).

*United States v. Leasure*, 1997 U.S. App. LEXIS 5823 (4<sup>th</sup> Cir. 1997) (Defendant).

*United States v. Rock Island Armory, Inc.*, 773 F. Supp. 117 (C.D. Ill. 1991), *appeal dismissed*, No. 91-2595, 1991 WL 224268 (7<sup>th</sup> Cir. Aug. 13, 1991) (Defendants).

*Williams v. State*, 10 A.3d 1167 (Md. 2011), *cert. denied*, 132 S.Ct. 93 (2011) (Petitioner)

*Wilson v. Cook County*, 348 Ill. Dec. 160, 943 N.E.2d 768 (1 Dist. 2011), appeal granted & argued in Ill. Sup. Ct., [http://www.state.il.us/court/Media/On\\_Demand.asp](http://www.state.il.us/court/Media/On_Demand.asp) (oral argument), rev'd, 2012 IL 112026, 968 N.E.2d 641 (2012) (Appellants).

## **DRAFTED BRIEFS**

*Commonwealth of Virginia v. United States*, No. 3:95v357 (E.D.Va. 1995). Prepared Tenth Amendment portions of Virginia's briefs challenging federal motor voter law.

*Kasler v. Lungren*, 61 Cal.App.4th 1237, 72 Cal.Rptr.2d 260 (1998), *rev'd*, *Kasler v. Lockyer*, 23 Cal.4th 472, 2 P.3d 581 (2000), *cert. denied*, 531 U.S. 1149 (2001) (with Don Kates).

*United States v. Mack*, 164 F.3d 467 (9<sup>th</sup> Cir. 1999) (with Don Kates).

*United States v. Twelve Miscellaneous Firearms*, 816 F. Supp. 1316 (C.D. Ill. 1993).

## **AMICUS BRIEFS**

*Brooks v. State*, 128 S.W.3d 844 (Mo. 2004) (National Rifle Association)

*Bryan v. United States*, 524 U.S. 184 (1998) (National Association of Criminal Defense Lawyers).

*City of Chicago v. U.S. Dept. of Treasury, BATF*, 287 F.3d 628 (7<sup>th</sup> Cir. 2002), *vacated & remanded*, 537 U.S. 1229 (2003), *on remand*, 384 F.3d 429 (7<sup>th</sup> Cir. 2004), *further proceeding*, 423 F.3d 777 (7<sup>th</sup> Cir. 2005) (NRA).

*District of Columbia v. Heller*, 554 U.S. 570 (2008) (55 Members of U.S. Senate, President of U.S. Senate, 250 Members of U.S. House of Representatives). 2008 WL 383530; <http://stephenhalbrook.com/lawsuits/Heller.brief.senators.pdf>

*Dukakis v. U.S. Department of Defense*, 686 F. Supp. 30, *aff'd*, 859 F.2d 1066 (1st Cir. 1988), *cert. denied*, 490 U.S. 1020 (1989).

*Harris v. United States*, 536 U.S. 545 (2002) (the Cato Institute and National Association of Criminal Defense Lawyers).

*Houston v. City of New Orleans*, 675 F.3d 441, *vacated & remanded*, 682 F.3d 361 (5<sup>th</sup> Cir. 2012) (NRA)

*In re Jorge M.*, 23 Cal.4th 866, 4 P.3d 297 (2000) (International Wound Ballistics Association).

*Kalodimos v. Village of Morton Grove*, 103 Ill.2d 483, 470 N.E.2d 266 (1984) (Illinois Small Business Men's Association).

*Kellogg v. City of Gary*, 519 N.E.2d 570 (Ind. App. 1988), *rev'd*, 562 N.E.2d 685 (Ind. 1990).

*Logan v. United States*, 552 U.S. 23 (2007) (NRA)

*Millender v. County of Los Angeles*, 620 F.3d 1016 (9<sup>th</sup> Cir. 2010) (*en banc*), *rev'd*, *Messerschmidt v. Millender*, 132 S.Ct. 1235 (2012) (NRA, CRPA).

*Mosby v. Devine*, 851 A.2d 1031 (R.I. 2004) (NRA).

*Nordyke v. King*, 319 F.3d 1185 (9<sup>th</sup> Cir. 2003), *reh. denied*, 364 F.3d 1025 (9<sup>th</sup> Cir. 2004), *later proceeding*, 563 F.3d 439, *reh. en banc granted*, 575 F.3d 890 (9<sup>th</sup> Cir. 2009) (National Rifle Association), *later proceeding*, 2011 WL 1632063 (9<sup>th</sup> Cir. 2011), *later proceeding*, 2012 WL 1959239 (9<sup>th</sup> Cir. 2012) (*en banc*) (California Rifle & Pistol Association).

*Ohioans for Concealed Carry v. City of Clyde*, 120 Ohio St.3d 96, 896 N.E.2d 967 (2008) (National Rifle Association)

*Parker v. State*, 221 Cal. App.4th 340, 164 Cal. Rptr.3d 345 (5<sup>th</sup> Dist. 2013) (FFLGuard LLC & Gun Owners of California)

*Perpich v. U.S. Department of Defense*, 880 F.2d 11 (8<sup>th</sup> Cir. 1989), *aff'd*, 496 U.S. 334 (1990) (Firearms Civil Rights Legal Defense Fund).

*People v. Aguilar*, 2013 IL 112116, 2013 WL 5080118 (Ill. 2013) (Illinois State Rifle Association, Congress of Racial Equality, Pink Pistols).

*Quilici v. Village of Morton Grove*, 695 F.2d 261 (7th Cir. 1982), *cert. denied*, 464 U.S. 863 (1983).

*State v. Fisher*, 290 Wis.2d 121, 714 N.W.2d 495 (2006) (National Rifle Association).

*State v. McAdams*, 714 P.2d 1236 (Wyo. 1986).

*United States v. Drasen*, 845 F.2d 731 (7th Cir. 1988), *cert. denied*, 488 U.S. 909 (1988).

*United States v. Emerson*, 270 F.3d 203 (5<sup>th</sup> Cir. 2001) (Texas Justice Foundation).

*United States v. Murphree*, 783 F.2d 605 (6<sup>th</sup> Cir. 1986).

*United States v. Skoien*, 2010 WL 2735747 (7<sup>th</sup> Cir. 2010) (en banc) (National Rifle Association).

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## ARTICLES FEATURING

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Peter Finn, “How the NRA helped reshape views of the Second Amendment,” *Washington Post*, March 14, 2013, A1, 9. [http://www.washingtonpost.com/world/national-security/nra-money-helped-reshape-gun-law/2013/03/13/73d71e22-829a-11e2-b99e-6baf4ebe42df\\_story.html](http://www.washingtonpost.com/world/national-security/nra-money-helped-reshape-gun-law/2013/03/13/73d71e22-829a-11e2-b99e-6baf4ebe42df_story.html).

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## LECTURES AND TALKS

American Bar Association, National Association of Criminal Defense Lawyers, Fairfax Bar Association, U.S. Congress Constitutional Forum, Heritage Foundation, Federalist Society, American Constitution Society, Cato Institute, American Enterprise Institute, American Civil Liberties Union, American Society for Legal History

Law Schools: Georgetown University, University of Virginia, American University, University of Richmond, St. Johns University, Touro University, Valparasio University, University of Arizona, George Mason University, University of Maine, Stetson University, St. Thomas University, University of Iowa, Chapman University, George Washington University, University of Arkansas, University of Denver, Wake Forest University, William Mitchell College, Hamline University, University of St. Thomas, City University of New York, Texas Wesleyan University, Southern Methodist University, University of Texas, Baylor University, Regent University, Syracuse University, Florida Coastal University, Florida State University, University of North Carolina, Campbell University, University of Missouri, Washington University, Saint Louis University, Temple University, Chicago-Kent, University of Kentucky, University of Louisville, Northern Kentucky University, University of Georgia, Santa Clara University, University of South Carolina, Gonzaga University, University of Idaho, Lewis and Clark University, Willamette University, University of Oregon, University of Hawaii, Rutgers University - Newark

Universities: Yale University, Norwich University

ABC News NOW, CNN, Phil Donahue Show, Court TV, Voice of America, numerous TV/radio shows

C-SPAN, interviews & Congressional testimony, 1988-2009, <http://www.c-spanvideo.org/stephenhalbrook>

“Justice” with Judge Jeanine Pirro, Fox News -

<http://www.stephenhalbrook.com/videos/jeanine.mp4>

[http://www.foxnews.com/on-air/justice-jeanine/index.html#/v/2186710402001/second-american-revolution-on-the-horizon/?playlist\\_id=163706](http://www.foxnews.com/on-air/justice-jeanine/index.html#/v/2186710402001/second-american-revolution-on-the-horizon/?playlist_id=163706)

[http://video.foxnews.com/v/2557453394001/were-trayvon-martins-civil-rights-violated/?playlist\\_id=163706](http://video.foxnews.com/v/2557453394001/were-trayvon-martins-civil-rights-violated/?playlist_id=163706)

Glen Beck - Fox News <http://www.independent.org/blog/?p=1614>

Lou Dobbs - CNN <http://www.independent.org/blog/?p=1405>

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C-SPAN Washington Journal -

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Secret Passages: Episode 5 (Jaffe Productions), broadcast on History Channel (2002) (commentary on Swiss Alpine fortifications).

## **AFFILIATIONS AND COMMITTEE SERVICE**

Committee on Hearings, National Rifle Association

Ethics Forum, Fairfax Hospital Association

Research Fellow, Independent Institute, Oakland, CA

Public Information Committee, Virginia State Bar

Board of Scholars, Virginia Institute for Public Policy

## **CONTINUING LEGAL EDUCATION SEMINARS TAUGHT (selected)**

2013 “Constitutional Law – The Right to Bear Arms,” Texas Bar CLE, Ft. Worth, Sept. 27,

“Constitutional Law: To the Supreme Court and Beyond,” National Firearms Law Seminar, Orlando, April 25, 2003

2011 “The Constitutional Right to Hunt,” National Firearms Law Seminar, Pittsburgh, April 29,

2007 “The Constitutional Right to Hunt,” National Firearms Law Seminar, St. Louis, April 13,

“Ethical Issues: Counseling Clients in Possession of Unregistered Firearms,” Virginia

CLE, Richmond, Nov. 10, 2011

“Ethical Issues in Firearms Law” and “Second Amendment Litigation,” University of San Diego School of Law, October 15, 2011

“Ethical Issues: Counseling Clients in Possession of Unregistered Firearms” and “The Right to Bear Arms under the Virginia and United States Constitutions,” Virginia CLE, Fairfax, Nov. 6, 2013

“Extent of the Individual Right to Gun Ownership,” GMU Civil Rights Law Journal Symposium, Arlington, VA, Oct. 17, 2007

“Federal Constitutional Law Update,” National Firearms Law Seminar, Houston, April 15, 2005

“Federal Firearms Law Issues” and “Counseling Clients in Illegal Possession of Firearms,” Firearms Law in Tennessee, Lorman Educational Services, Nashville, May 12, 2005

“Federal Litigation Panel” and “Second Amendment Scholarship,” University of Denver Law School, Oct. 12, 2013

“Firearms Confiscations During Emergencies,” National Firearms Law Seminar, Louisville, May 16, 2008

“Firearms Law and the Second Amendment Symposium,” George Mason University Law School, Arlington, VA, Sept. 24, 2005

“From Heller to Chicagoland: Incorporation of the Second Amendment into the Fourteenth Amendment?” National Firearms Law Seminar, Charlotte, May 14, 2010

“Habeas Corpus and the Rights of Firearms Owners,” National Association of Criminal Defense Lawyers, Washington, D.C., May 21, 1996

“*Heller* in Chicagoland,” George Mason University Law School, Arlington, VA, Nov. 19, 2008

“*Heller* in Chicagoland,” National Firearms Law Seminar, Phoenix, May 15, 2009

“Interpreting the Second Amendment,” Texas Bar CLE, Dallas, May 23, 2007

“Jury Nullification,” American Bar Association, Washington, D.C., March 31, 1997

“Litigating Firearms Law Cases in the Supreme Court,” National Firearms Law Seminar,



Charlotte, May 19, 2000

“Litigating the Right to Keep and Bear Arms,” Federal Bar Association, Pittsburgh, Dec. 7, 2006

“A Right to Bear Arms (But Only at Home?),” National Firearms Law Seminar, St. Louis, April 13, 2012

“The Right to Bear Arms,” Kentucky Bar Association Annual Convention, Covington, June 16, 2006

“The Right to Bear Arms in the Post *Heller/McDonald* World,” Texas Bar CLE, San Antonio, Sept. 28, 2012

“The Right to Bear Arms under the Virginia and U.S. Constitutions,” Virginia CLE, Richmond, Nov. 10, 2011

“The Second Amendment and the Right to Bear Arms,” American Bar Association Annual Meeting, Atlanta, August 11, 1991

“Second Amendment Update” and “Zealous Representation *Without* the Bounds of the Law,” National Firearms Law Seminar, June 11, 1999

“State and Federal Constitutional Issues Related to Firearms Law,” Firearms Law in Virginia, Virginia CLE, Richmond, June 23, 2005

“Suing the Firearms Industry,” Consumer Law Symposium, Chapman University Law School, Jan. 30, 2004

“The Supreme Court and Second Amendment Litigation,” National Firearms Law Seminar, Milwaukee, May 19, 2006

“The Supreme Court and the Second Amendment” and “Suppression of Exculpatory Evidence: the Waco Prosecution,” First Annual Firearms Law Seminar, Philadelphia, June 5, 1998

“Supreme Court Update” and “Ethical Issues: Candor Toward the Tribunal,” National Firearms Law Seminar, Reno, April 26, 2002

“What is a Non-Frivolous, Good Faith Argument for the Reversal of Existing Law?” and “The Supreme Court’s *Apprendi-Castillo* Decisions and the Right to Jury Trial,” National Firearms Law Seminar, Kansas City, May 18, 2001



# EXHIBIT B

**DECLARATION OF STEPHEN P. HALBROOK**

**EXHIBIT B**

<u>Date</u>	<u>Service Performed</u>	<u>Hours</u>
5/6/11	Ill. CCW - Email, Review of Files	1.2
5/9/11	Email, Legal Research, Review of Complaint	1.5
5/10/11	Legal Research, Email	1.6
5/11/11	Email, Preparation of Comments - Complaint	3.6
5/12/11	Draft Complaint, Email - Parties, Forum	4.8
5/13/11	Review of Complaint drafts, Email	3.6
5/15/11	Email - Plaintiff Issue	0.3
5/16/11	Email, Preparation of Memo - Carry Issue	5.8
5/17/11	Email, Preparation of Memo - Public Understanding	4.8
5/18/11	Preparation of Memo	3.4
5/19/11	Preparation of Memo	4.0
5/24/11	Preparation of Memo, Legal Research	1.2
5/26/11	Phone Conference with Counsel, Review of Aguilar File	2.8
5/27/11	Email Aguilar, Review of Petition, Decision Preparation of Memo	1.6
6/13/11	Legal Research, Preparation of Memo - Bear Arms	2.8
6/22/11	Review of Docket, Motion	0.2
6/27/11	Review of Alderman Letter, Email, Legal Research	1.0
7/8/11	Review of Declaration, P.I. Motion, Legal Research, Preparation of Comments	2.8

7/11/11	Review of P.I. Memo	0.5
7/14/11	Email P.I.	0.2
7/18/11	Legal Research, Preparation of Memo	0.6
7/21/11	Review of Masciandaro Petition	1.0
7/22/11	Email - Brady Amicus	0.2
7/25/11	Review of Opp. to Injunction, Review of Motion to Dismiss	2.5
7/26/11	Review of Briefs	0.5
7/27/11	Email - Dismiss, MSJ	0.4
7/28/11	Review of Brady Motions, Email	0.4
8/5/11	Review Summary Judgment Draft, Comments	1.2
8/6/11	Review of Opposition, Brady Amicus	2.5
8/7/11	Preparation of Reply Brief	5.4
8/8/11	Preparation of Reply Brief	3.2
8/14/11	Review of Draft Opposition Dismiss, Email	1.2
8/19/11	Review of Response Motion Dismiss	0.6
8/29/11	Review of Madigan Reply	0.4
9/5/11	Review of Motion to Defer	0.4
9/6/11	Legal Research - Kachalsky	0.8
9/19/11	Review of Opposition to Summary Judgment	0.3
9/21/11	Legal Research - New Cases	0.4
9/22/11	Review of Response to Supp. Authority	1.0
9/27/11	Phone Conference with Counsel	0.3

9/29/11	Review of Ezell Order Mootness	0.4
9/30/11	Legal Research - Hightower, New Cases	0.8
10/19/11	Legal Research - P. Charles L. Rev.	0.6
11/16/11	Review of Order, Email	0.2
11/17/11	Conf. Call Counsel, Email	0.4
11/27/11	Legal Research - Montyce H.	0.8
12/19/11	Legal Research - New Cases	1.6
	Email Extension	0.1
1/3/12	Prepare Memo - Preemption	3.8
1/4/12	Review Petition Rehear and Brady Amicus	
	Review Kachalsky Petition	2.4
1/9/12	Review Filings, Email	0.4
1/26/12	Conference Call with Counsel- Status	0.5
2/5/12	Review of Moore, Gonzales Decisions	1.5
2/7/12	Conference Call with Counsel	
	Review of Hightower Brief	0.6
2/8/12	Response to Motion to Supplement	0.3
3/5/12	Review of Md. Decision, Comments, Prepare Letter to Court	3.4
3/12/12	Review of Woollard Filings - Stay	0.6
3/16/12	Review of Moore Appeal Brief	0.6
3/20/12	Review of Nordyke Oral Argument	
	Legal Research - Standard of Review	1.4
3/21/12	Review of Woollard Opp. to Stay	
	Court Questions, Email	0.6

5/11/12	Email - Amici	0.2
5/16/12	Review Amici Briefs, Legal Research, Prepare Response	2.2
5/22/12	Review Drafts, Prepare Comments - Reply	1.2
5/24/12	Review Moore Reply	0.6
5/30/12	Legal Research	0.6
6/1/12	Legal Research, Review Briefs	2.4
6/4/12	Review Briefs, Moot Court	2.4
6/7/12	Review Oral Argument - Mass.	1.0
6/12/12	Review Oral Argument - 7 <sup>th</sup> Cir.	1.3
6/18/12	Review Woollard Appeal Brief	0.4
6/29/12	Legal Research- New Cases- Standard of Review	0.5
7/6/12	Review of Historians Brief- Aguilar, Email	1.6
7/12/12	Review of Woollard Amicus	0.4
7/30/12	Review Woollard Briefs	0.8
8/6/12	Review Historians Brief - Woollard	0.8
11/28/12	Review Supplemental Authority, Email	0.7
11/30/12	Review Response Kachalsky, Prepare Comments	0.8
12/11/12	Review Opinion (7 <sup>th</sup> Circuit), Prepare Memo	1.6
12/13/12	Review Supp. Letters, Email	0.4
12/14/12	Review Opinion, Prepare Memo	0.8
12/18/12	Review Motion Rehear Extension, Email	0.2
1/22/13	Review Opposition to Rehear draft, Prepare Comments	1.2

2/22/13	Email - Denial Rehearing, Review Dissent	1.4
3/14/13	Review Kachalsky Opposition	0.4
3/22/13	Review Woollard Opinion	1.0
3/24/13	Legal Research - New Cases	1.5
3/26/13	Legal Research - New Cases	0.6
3/27/13	Review Kalchasky Reply, New Decisions	1.8
4/29/13	Review of App. Extend Time- Cert.	0.2
6/7/13	Legal Research- New Cases	<u>0.6</u>
	Total Hours	121.6

*Services related to preparation of motion for attorney's fee*

12/5/13	Phone Conference w/Counsel, Compile Fee Info	0.4
12/12/13	Review of Draft Brief, Case Records	1.4
	Preparation of Declaration	1.5
12/13/13	Preparation of Declaration Fees	3.2
12/16/13	Review of Time Sheet- Reasonableness, Preparation of Declaration	<u>2.8</u>
	Total Hours	10.2
	GRAND TOTAL HOURS	131.8